

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

MARY SELENA BERRY,

Plaintiff,

v.

CIVIL ACTION NO. 5:16-cv-01500

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

By *Standing Order* (Document 3) entered on February 12, 2016, this action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B).

On December 22, 2016, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 11) wherein it is recommended that this Court: grant the Plaintiff's request for judgment on the pleadings to the extent that it seeks remand of the Commissioner's decision; deny the Defendant's request to affirm the decision of the Commissioner; reverse the final decision of the Commissioner; remand this matter pursuant to sentence four of 42 U.S.C. § 405(g), for further proceedings consistent with the *Proposed Findings and Recommendation*; and dismiss this matter with prejudice from the Court's docket.

Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by January 9, 2017, and none were filed by either party. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *see also Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983) (holding that districts courts may adopt proposed findings and recommendations without explanation in the absence of objections).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*. The Court **ORDERS** that: the Plaintiff's request for judgment on the pleadings (Document 9) be **GRANTED** to the extent that it seeks remand of the Commissioner's decision; the Defendant's request to affirm the decision of the Commissioner (Document 10) be **DENIED**; the final decision of the Commissioner be **REVERSED**; this matter be **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g), for further proceedings consistent with the *Proposed Findings and Recommendation*; and this matter be **DISMISSED with prejudice** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this *Memorandum Opinion and Order* to Magistrate Judge Eifert, counsel of record, and any unrepresented party.

ENTER: January 12, 2017


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA